

FILED IN THE
UNITED STATES
BANKRUPTCY COURT
2003 APR 11 P 3:31
DISTRICT OF UTAH
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UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

IN RE:	Bankruptcy No. 02-22906
SIMON TRANSPORTATION SERVICES, INC. and	(Jointly Administered)
DICK SIMON TRUCKING, INC.,	Chapter 11
Debtors.	Judge Glen E. Clark
	DIME COMMERCIAL CORPORATION'S MOTION FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE PRIORITY CLAIM

Pursuant to 11 U.S.C. § 365(d)(10) and/or 11 U.S.C. § 503(b)(1)(A), Dime Commercial Corporation ("Dime"), by and through its attorneys of record, hereby moves this Court for an order granting Dime allowance and payment of an administrative expense priority claim. In support of its Motion, Dime alleges the following:



PARTIES

1. On February 25, 2002 (the "Petition Date"), Simon Transportation Services, Inc. ("Simon Transportation") filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, Case No. 02-22906). On the Petition Date, Dick Simon Trucking, Inc. ("Simon Trucking") also filed a voluntary petition under Chapter 11 of the Bankruptcy Code, Case No. 02-22907. Pursuant to motions filed by both Simon Trucking and Simon Transportation, the cases are being jointly administered under Bankruptcy Case No. 02-22906. Simon Trucking and Simon Transportation will hereafter be referred to jointly as the "Debtors."

2. Dime was a lessor of certain equipment to the Debtors.

JURISDICTION AND VENUE

3. This is a core proceeding pursuant to 11 U.S.C. § 157(b)(2)(A) and (B). Venue and jurisdiction of this contested matter is proper in this district pursuant to 28 U.S.C. §§ 1334 and 1409.

STATEMENT OF RELEVANT FACTS

4. Dime is a personal property equipment lessor of the Debtors as evidenced by the following:

- a. On or about February 17, 1993, for valuable and sufficient consideration, NationsBanc Leasing Corporation ("NationsBanc"), as Lessor, and Simon Trucking, as Lessee, entered into a Motor Vehicle Lease Agreement, Lease No. 08047-00200, as amended by Amendment No. 1 to Motor Vehicle Lease Agreement No. 08047-00200 ("Amendment No.

1")(collectively the "Lease"), whereby NationsBanc agreed to lease to Simon Trucking and Simon Trucking agreed to lease from NationsBanc certain vehicles to be identified in Requests to Purchase, upon terms and conditions set forth in the Lease and in the Requests to Purchase. (A true and correct copy of the Lease is attached as Exhibit B to the Proof of Claim filed by Dime on August 26, 2004 (the "Proof of Claim")).

- b. On or about August 16, 1996, for valuable and sufficient consideration, Simon Transportation executed and delivered to NationsBanc a Guaranty of Corporation (the "Guaranty"), whereby Simon Transportation unconditionally guaranteed the full payment and performance by Simon Trucking of all financial accommodations and other obligations under the Lease, including without limitation payment of all principal, interest and other charges, including attorney fees and expenses, payable to Dime under the Lease, plus all additional costs of collection to enforce the Guaranty, including fifteen percent (15%) of the total principal and interest owing under the Lease as attorney fees, together with all other legal and court expenses. (A true and correct copy of the Guaranty is attached as Exhibit C to the Proof of Claim).
- c. On or about April 22, 1998, for valuable and sufficient consideration, NationsBanc and Dime entered into a Master Assignment Agreement (the "Assignment Agreement"), whereby NationsBanc agreed to sell to Dime

and Dime agreed to purchase from NationsBanc certain of NationsBanc's rights, duties and obligations under the Lease, as amended, all as more particularly set forth in the Assignment Agreement. (A true and correct copy of the Assignment Agreement is attached as Exhibit D to the Proof of Claim).

d. Pursuant to the Lease and the Assignment Agreement, and for valuable and sufficient consideration, Dime, as Lessor, and Simon Trucking, as Lessee, entered into the following four (4) separate Requests to Purchase (collectively the "Requests to Purchase"):

- (1) Request to Purchase Number 7 ("Request to Purchase Number 7"), including Amendment Number 1 to Motor Vehicle Lease Agreement 08047-00200 Lease Schedule 007, whereby Dime, as Lessor, leased to Simon Trucking, as Lessee, seventy-five (75) 1998 Utility 53' x 102" Model VS2RX Semi-Trailers, as more particularly described in Request to Purchase Number 7 (A true and correct copy of Request to Purchase Number 7 is attached Exhibit E to the Proof of Claim) ;
- (2) Request to Purchase Number 8 ("Request to Purchase Number 8"), including Amendment Number 1 to Motor Vehicle Lease Agreement 08047-00200 Request to Purchase 8, whereby Dime, as Lessor, leased to Simon Trucking, as Lessee, seventy-five (75)

1998 Utility 53' x 102" Model VS2RX Semi-Trailers, as more particularly described in Request to Purchase Number 8 (A true and correct copy of Request to Purchase Number 8 is attached Exhibit F to the Proof of Claim) ;

- (3) Request to Purchase Number 10 ("Request to Purchase Number 10"), whereby Dime, as Lessor, leased to Simon Trucking, as Lessee, nine (9) 2000 Freightliner FLD 120 Tractors, as more particularly described in Request to Purchase Number 10 (A true and correct copy of Request to Purchase Number 10 is attached Exhibit G to the Proof of Claim) ; and
- (4) Request to Purchase Number 13 ("Request to Purchase Number 13"), whereby Dime, as Lessor, leased to Simon Trucking, as Lessee, thirty (30) 2000 Freightliner FLD 120 Tractors, as more particularly described in Request to Purchase Number 13. (A true and correct copy of Request to Purchase Number 13 is attached Exhibit H to the Proof of Claim) ;

The one hundred fifty (150) trailers and thirty-nine (39) tractors described in the Requests to Purchase are hereafter referred to collectively as the "Vehicles."

- e. The Lease was further amended by Amendment No. 2 ("Amendment No. 2"), a true and correct copy of which is attached as Exhibit I to the Proof of

Claim). The Requests to Purchase, although each constituting a separate instrument of lease incorporating the terms and conditions of the Lease, are referred to collectively as the "Lease."

- f. Both Simon Trucking and Simon Transportation approved the assignment of the Lease to Dime.
- g. Dime took possession of the original Utah Certificate of Title for each of the Vehicles. As Lessor, Dime was the owner of the Vehicles and, accordingly, was named as the owner on each Utah Certificate of Title for each of the one hundred fifty (150) trailers described in Requests to Purchase Numbers 7 and 8. However, Simon Trucking (rather than Dime) was mistakenly named as the owner and Dime was mistakenly named as the lien-holder on each Utah Certificate of Title for the thirty-nine (39) tractors described in Requests to Purchase Numbers 10 and 13. As a precautionary measure, under the Lease, Simon Trucking granted to Dime a first-priority fully perfected security interest in each of the Vehicles.

5. On or about November 6, 2001, Dime notified the Debtors in writing that based upon the defaults under the Lease, the Lease and Simon Trucking's right to possession and use of the Vehicles under the Lease were terminated. (A true and correct copy of that notice, dated November 6, 2001, is attached as Exhibit 9 to Dime's Motion for Relief from the Automatic Stay, dated March 12, 2002).

6. On December 12, 2001, Dime filed a Complaint in the Third Judicial District Court of Salt Lake County, State of Utah, Civil No. 010911262, against Debtors ("State Court Action") seeking, inter alia, a prejudgment writ of replevin for all the Vehicles and judgment against Debtors for their obligations under the Lease and Guaranty.

7. The Debtors and Dime stipulated to an order in the State Court Action concerning: (1) issuance of a prejudgment writ of replevin; (2) assemblage of vehicles in Utah; and (3) response to complaint ("Stipulated Order"). (A true and correct copy of the Stipulated Order is attached as Exhibit 10 to Dime's Motion for Relief from the Automatic Stay, dated March 12, 2002).

8. The Debtors' default under the Lease was not cured and the Lease was terminated.

9. The Stipulated Order was agreed to and approved by counsel for both Dime and the Debtors.

10. The Stipulated Order, however, was not signed by the Court in the State Court Action because of the filing of the Debtors' bankruptcy petitions on February 25, 2002.

11. Notwithstanding the Debtors' default under the Lease, and notwithstanding Dime's attempts to terminate the Lease, the Debtors' retained possession of the all of the Vehicles prior to and after the filing of the bankruptcy petitions.

12. On March 12, 2002, Dime filed its MOTION FOR RELIEF FROM THE AUTOMATIC STAY, wherein Dime requested, among other things, the entry of an Order granting Dime relief from the automatic stay to allow Dime to obtain possession of the Vehicles

and to pursue any and all of its legal and equitable rights and remedies with respect to the Vehicles, and ordering the Debtors to immediately surrender the Vehicles to Dime.

13. On April 12, 2002, the Court entered in ORDER granting Dime's MOTION FOR RELIEF FROM THE AUTOMATIC STAY.

14. The Debtors did not surrender any of the Vehicles to Dime until several weeks after the bankruptcy petitions were filed.

15. Dime first received possession of some of the Vehicles approximately 56 days after the bankruptcy petitions were filed. Thereafter, Dime received possession of additional Vehicles over the course of the next several months.

16. As of the date of this Motion, Dime has recovered possession of 187 of the 189 Vehicles.

17. Upon information and belief, each the 187 Vehicles was used for the benefit of the Debtors' estate prior to the date of surrender to Dime.

18. As of the date of this Motion, 2 of the 189 Vehicles have not been surrendered by the Debtor to Dime.

19. Upon information and belief, the 2 Vehicles which have not been surrendered to Dime, have also been used for the benefit of the Debtors' estate.

20. The Debtors failed to make any post-petition payments to Dime, notwithstanding their retention and use of the Vehicles after the petitions were filed.

21. Attached hereto as Exhibit "A" is a schedule identifying each of the 189 Vehicles and showing the approximate date upon which the Vehicles were recovered by Dime.

22. Exhibit "A" also shows the approximate number of days which elapsed between the filing of the bankruptcy petitions and the recovery of possession of each of the Vehicles from the Debtors.

23. Exhibit "A" also shows the per diem rental rate for each of the Vehicles, pursuant to the lease documents.

24. Pursuant to the lease documents, the monthly rental rate for the 75 Vehicles purchased under Request to Purchase Number 7 was \$37,339.60. The per diem rental rate for each of the 75 Vehicles under Request to Purchase Number 7 is \$16.37.

25. Pursuant to the lease documents, the monthly rental rate for the 75 Vehicles purchased under Request to Purchase Number 8 was \$37,153.31. The per diem rental rate for each of the 75 Vehicles under Request to Purchase Number 8 is \$16.29.

26. Pursuant to the lease documents, the monthly rental rate for the 9 Vehicles purchased under Request to Purchase Number 10 was \$12,974.97. The per diem rental rate for each of the 9 Vehicles under Request to Purchase Number 10 is \$47.40.

27. Pursuant to the lease documents, the monthly rental rate for the 30 Vehicles purchased under Request to Purchase Number 13 was \$37,777.84. The per diem rental rate for each of the 30 Vehicles under Request to Purchase Number 13 is \$41.40.

28. With respect to the Vehicles which have been surrendered to Dime, the total amount of the rental obligation owing to Dime for the period of the Debtors' post-petition retention of the Vehicles equals \$352,599.16.¹

29. With respect to the 2 Vehicles which have not been surrendered to Dime, the total amount of the rental obligation owing to Dime is unliquidated. See ¶ 31, *infra*.

30. On March 12, 2003, this Court entered its Order confirming the Debtors' Amended Joint Plan of Liquidation, dated December 27, 2002 (the "Plan").

31. With respect to the Debtors' lease with Dime, the Plan provides as follows:

Dime Commercial Corporation ("Dime") asserts that it is a lessor of tractors and trailers pursuant to a Motor Vehicle Lease Agreement (the "Dime Lease") attached to its Motion for Relief from the Automatic Stay filed March 12, 2002. The Dime Lease shall be rejected pursuant to Article V. Debtors and the Committee shall investigate the existence and location of two (2) trailers, Unit Nos. 532184 and 532230, and Dime shall have the rights to file a Class 1 rejection claim or an Administrative Expense Claim if the trailers cannot be located. Debtors and the Committee agree to attempt to locate the trailers. If they cannot be located, to the extent any insurance coverage exists with respect to the trailers, Debtors and Committee agree to make claims on such coverage, if any, and agree any available insurance proceeds shall be paid over to Dime as owner of the trailers or as a secured lien holder on the insurance proceeds.

Plan, at pp. 8-9, § 5.4.

¹ This calculation is based upon the Debtors' use of 184 of the 187 Vehicles which have been recovered by Dime. Dime has been unable to locate information as to 3 of the recovered Vehicles and, at this time, Dime is not seeking an administrative expense claim for the Debtors' use of such Vehicles.

32. The Plan provides that administrative expense claims shall be filed within 30 day after the confirmation date. Based upon this deadline, Dime hereby files this Motion for Allowance and Payment of Administrative Expense Priority Claim.

DISCUSSION

Dime is entitled to a priority administrative expense claim pursuant to 11 U.S.C. § 365(d)(10) and/or 11 U.S.C. § 503(b)(1)(A), based upon the Debtors' post-petition retention and use of the Vehicles. Pursuant to the post-petition rejection of the lease as described in the Plan (see ¶ 31, *supra*), Dime is entitled to a priority claim under 11 U.S.C. § 365(d)(10). To the extent that the Debtors purported to operate under the Lease Agreement in retaining and using the Vehicles post-petition, Dime is entitled to an administrative claim for the post-petition lease payments owing to Dime.

In the alternative, Dime is entitled to a priority claim under 11 U.S.C. § 503(b)(1)(A) based upon the benefit conferred upon the estate from the Debtors' post-petition retention and use of the Vehicles. The amount of Dime's administrative expense claim is the total amount of the Debtors' rental obligation under the lease documents for the period of the Debtors' post-petition retention of the Vehicles. See *In re Raymond Cossette Trucking, Inc.*, 231 B.R. 80, 85 (Bankr. D. N.D. 1999) ("the rent specified in the lease itself is the presumed reasonable value of the property to the debtor-in-possession").

In the present case, the amount of Dime's administrative expense claim equals \$352,599.16, which is the lease rental rate for the Debtors' post-petition use of the Vehicles

which were surrendered to Dime, plus an unliquidated as to the 2 Vehicles which the Debtor failed to surrender to Dime.

WHEREFORE, Dime respectfully requests that the Court enter an Order for the allowance and payment of a priority administrative expense claim as requested above, and granting Dime such other and further relief as the Court deems just and proper.

DATED: April 11th, 2003

CALLISTER NEBEKER & McCULLOUGH


By: 
JEFFREY L. SHIELDS
Attorneys for Dime Commercial Corporation

EXHIBIT A

Request to Purchase #7

Monthly Payment

Total Cost \$3,045,644.60
Term 60
Base Rental Rate 1.226%

Monthly Payment \$ 37,339.60
Bankruptcy Date 2/25/2002

Equipment	Item #	Vin #	Date Sold	Date Recovered	PER DIENT	Claim	Days
1998 Unity	1	1UVVS2531WC616001	06/01/02	5/18/02	\$ 16.37	\$ 1,342.18	82
Trailer	2	6002	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	3	6003	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	4	6004	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	5	6005	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	6	6006	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	7	6007	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	8	6008	05/08/02	4/22/02	\$ 16.37	\$ 1,342.34	82
	9	6009	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	10	6010	07/26/02	7/12/02	\$ 16.37	\$ 2,242.69	137
	11	6011	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	12	6012	07/26/02	7/12/02	\$ 16.37	\$ 2,242.69	137
	13	6013	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	14	6014	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	15	6015	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	16	6016	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	17	6017	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	18	6018	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	19	6019	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	20	6020	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	21	6021	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	22	6022	06/01/02	5/18/02	\$ 16.37	\$ 1,342.14	82
	23	6023	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	24	6024	07/23/02	7/9/02	\$ 16.37	\$ 2,193.58	134
	25	6025	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	26	6026	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	27	6027	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	28	6028	Missing				
	29	6029	06/27/02	6/13/02	\$ 16.37	\$ 1,767.96	108
	30	6030	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	31	6031	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	32	6032	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	33	6033	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	34	1UVVS2533WC616034	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82
	35	6035	05/08/02	4/22/02	\$ 16.37	\$ 916.72	56
	36	6036	06/01/02	5/18/02	\$ 16.37	\$ 1,342.34	82

37	6037	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
38	6038	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
39	6039	06/27/02	6/13/02 \$	16.37 \$	1,767.96	108
40	6040	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
41	6041	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
42	6042	06/27/02	6/13/02 \$	16.37 \$	1,767.96	108
43	6043	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
44	6044	06/27/02	6/13/02 \$	16.37 \$	1,767.96	108
45	6045	05/06/02	4/22/02 \$	16.37 \$	916.72	56
46	6046	06/27/03	6/13/03 \$	16.37 \$	7,743.01	473
47	6047	01/21/03	1/7/03 \$	16.37 \$	5,172.92	316
48	6048	06/14/02	5/31/02 \$	16.37 \$	1,556.16	95
49	6049	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
50	6050	05/06/02	4/22/02 \$	16.37 \$	916.72	56
51	6051	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
52	6052	07/26/02	7/12/02 \$	16.37 \$	2,242.69	137
53	6053	05/06/02	4/22/02 \$	16.37 \$	916.72	56
54	6054	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
55	6055	05/06/02	4/22/02 \$	16.37 \$	916.72	56
56	6056	06/27/02	6/13/02 \$	16.37 \$	1,767.96	108
57	6057	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
58	6058	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
59	6059	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
60	6060	01/21/03	1/7/03 \$	16.37 \$	5,172.92	316
61	6061	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
62	6062	06/27/02	6/13/02 \$	16.37 \$	1,767.96	108
63	6063	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
64	6064	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
65	6065	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
66	6066	12/07/02	11/23/02 \$	16.37 \$	4,436.27	271
67	6067	05/06/02	4/22/02 \$	16.37 \$	916.72	56
68	6068	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
69	6069	01/21/03	1/7/03 \$	16.37 \$	5,172.92	316
70	6070	06/27/02	6/13/02 \$	16.37 \$	1,767.96	108
71	6071	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
72	6072	05/06/02	4/22/02 \$	16.37 \$	916.72	56
73	6073	06/01/02	5/18/02 \$	16.37 \$	1,342.34	82
74	6074	07/02/02	6/18/02 \$	16.37 \$	1,848.81	113
75	6075	05/06/02	4/22/02 \$	16.37 \$	916.72	56
				<u>\$ 119,910.09</u>		

Request to Purchase #8

Monthly Payment

Total Cost \$3,035,400.75 Term 60 Base Rental Rate 1.224% Monthly Payment \$ 37,153.31

Equipment 1996 Utility Trailers	Item #	Vin #	Date Sold	Date Recovered	PER DIEM*	Claim	Days
1	1	1UYV52532M1616901	5/6/2002	4/22/02	\$ 16.29	\$ 912.04	56
2	2	6902	7/22/2002	6/18/02	\$ 16.29	\$ 1,840.77	113
3	3	6903	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
4	4	6904	1/21/2003	1/7/03	\$ 16.29	\$ 5,147.84	316
5	5	6905	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
6	6	6906	5/6/2002	4/22/02	\$ 16.29	\$ 912.24	56
7	7	6907	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
8	8	6908	1/21/2003	1/7/03	\$ 16.29	\$ 5,147.84	316
9	9	6909	6/27/2002	6/13/02	\$ 16.29	\$ 1,759.32	108
10	10	6910	6/27/2002	6/13/02	\$ 16.29	\$ 1,759.32	108
11	11	6911	5/6/2002	4/22/02	\$ 16.29	\$ 912.24	56
12	12	6912	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
13	13	6913	7/28/2002	7/12/02	\$ 16.29	\$ 2,231.73	137
14	14	6914	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
15	15	6915	7/22/2002	6/18/02	\$ 16.29	\$ 1,840.77	113
16	16	6916	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
17	17	6917	1/21/2003	1/7/03	\$ 16.29	\$ 5,147.84	316
18	18	6918	5/6/2002	4/22/02	\$ 16.29	\$ 912.24	56
19	19	6919	10/12/2002	9/7/02	\$ 16.29	\$ 3,323.16	204
20	20	6920	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
21	21	6921	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
22	22	6922	Missing				
23	23	6923	5/6/2002	4/22/02	\$ 16.29	\$ 912.24	56
24	24	6924	5/6/2002	4/22/02	\$ 16.29	\$ 912.24	56
25	25	6925	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
26	26	6926	5/6/2002	4/22/02	\$ 16.29	\$ 912.24	56
27	27	6927	5/6/2002	4/22/02	\$ 16.29	\$ 912.24	56
28	28	6928	5/6/2002	4/22/02	\$ 16.29	\$ 912.24	56
29	29	6929	6/27/2002	6/13/02	\$ 16.29	\$ 1,759.32	108
30	30	6930	6/14/2002	5/31/02	\$ 16.29	\$ 1,547.55	95
31	31	6931	6/27/2002	6/13/02	\$ 16.29	\$ 1,759.32	108
32	32	6932	5/6/2002	4/22/02	\$ 16.29	\$ 912.24	56
33	33	6933	6/12/2002	5/18/02	\$ 16.29	\$ 1,335.78	82
34	34	6934	6/12/2002	4/22/02	\$ 16.29	\$ 912.24	56
35	35	6935	6/27/2002	6/13/02	\$ 16.29	\$ 1,759.32	108

Request to Purchase #10

Monthly Payment

Total Cost \$ 764,065.75 Term 36 Base Rental Rate 1.698149%

Monthly Payment \$ 12,974.57

Equipment	Item #	VIN #	Date Sent	Date Recovered	PER DIEM	Claim	Days
2000 Freightliner FLD 120 Tractors	1	1FUYDSEB5YP940433	6/1/2002	5/18/02	\$ 47.40	\$ 3,886.57	82
	2	1FUYDSEB5YP940430	6/1/2002	5/18/02	\$ 47.40	\$ 3,886.80	82
	3	1FUYDSEB1YP940431	5/6/2002	4/22/02	\$ 47.40	\$ 2,654.40	56
	4	1FUYDSEB3YP940432	6/1/2002	5/18/02	\$ 47.40	\$ 3,886.80	82
2000 Freightliner FLD 120 Tractors	5	1FUPCXZB0YP940412	6/1/2002	5/18/02	\$ 47.40	\$ 3,886.80	82
	6	1FUPCXZB7YP940410	6/1/2002	5/18/02	\$ 47.40	\$ 3,886.80	82
	7	1FUPCXZB9YP940411	6/1/2002	5/18/02	\$ 47.40	\$ 3,886.80	82
	8	1FUPCXZB2YP940413	6/1/2002	5/18/02	\$ 47.40	\$ 3,886.80	82
	9	1FUPCXZB4YP940414	6/1/2002	6/18/02	\$ 47.40	\$ 3,886.80	82
						<u>\$ 33,748.57</u>	

Request to Purchase #13

Monthly Payment

Total Cost \$2,214,582.75
 Term 36
 Base Rental Rate 1.705867%
 Monthly Payment \$ 37,777.84

Equipment
 2000 Freightliner
 FLD 120 Tractors

Item #	Vin #	Date Sold	Date Recovered	PER DIEM*	Claim	Days
1	1FUVDSEB2YP940552	5/6/2002	4/22/02	\$ 41.40	\$ 2,318.42	56
2	1FUVDSEB6YP940554	5/6/2002	4/22/02	\$ 41.40	\$ 2,318.40	56
3	1YP940556	5/6/2002	4/22/02	\$ 41.40	\$ 2,318.40	56
4	1YP940557	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
5	3YP940558	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
6	3YP940559	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
7	1YP940560	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
8	3YP940561	5/6/2002	4/22/02	\$ 41.40	\$ 2,318.40	56
9	5YP940562	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
10	7YP940563	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
11	8YP940572	Missing				
12	1YP940573	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
13	1YP940574	5/6/2002	4/22/02	\$ 41.40	\$ 2,318.40	56
14	3YP940575	5/6/2002	4/22/02	\$ 41.40	\$ 2,318.40	56
15	5YP940576	Missing				
16	7YP940577	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
17	9YP940578	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
18	0YP940579	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
19	7YP940580	5/6/2002	4/22/02	\$ 41.40	\$ 2,318.40	56
20	0YP940582	5/18/02	5/18/02	\$ 41.40	\$ 3,394.80	82
21	8YP940585	5/6/2002	4/22/02	\$ 41.40	\$ 2,318.40	56
22	8YP940584	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
23	2YP940586	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
24	4YP940587	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
25	8YP940589	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
26	4YP940570	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
27	0YP940585	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
28	6YP940588	5/6/2002	4/22/02	\$ 41.40	\$ 2,318.40	56
29	6YP940571	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82
30	8YP940581	6/1/2002	5/18/02	\$ 41.40	\$ 3,394.80	82

Total Owning

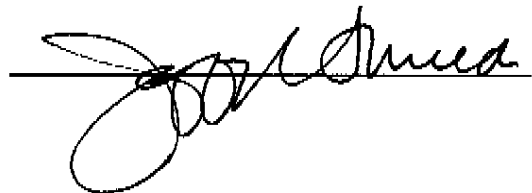
Request # 7	\$ 119,910.00
Request # 8	\$ 113,573.88
Request # 10	\$ 33,748.57
Request # 13	\$ 85,366.82
	<u>\$ 352,598.16</u>

* Per diem is computed as follows: The total cost of the equipment, as per the "Request to Purchase" was multiplied by the "Base Rental Rate" to determine the monthly payment amount. To determine the per diem the monthly rental amount was then multiplied by 12 to determine the yearly rental amount which was then divided by 365 to determine the per diem. The per diem was then multiplied by the number of days the equipment was in the possession of the bankrupt company. The per diem amount times the number of days equals the claim amount per piece of equipment. For example, using the information from Request #7 for the first trailer listed, the calculation would be:

Total Cost	\$ 3,045,644.60	Per Diem	\$ 16.37
Base rental rate	1.225%	# of Days	82
Monthly Payment	\$ 37,339.60	Claim	\$1,342.34
Monthly payment	\$ 37,339.60		
Times 12	12		
Yearly Payment	\$ 448,075.20		
Yearly Payment	\$ 448,075.20		
Divided by # days			
In Year	365		
	\$ 1,227.60		
Per diem Request #7	\$ 1,227.60		
Divided by number of			
pieces of equipment	75		
Per diem	\$ 16.37		

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **DIME COMMERCIAL CORPORATION'S**
MOTION FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE
PRIORITY CLAIM was served by United States mail, first class postage prepaid, on the 11th
day of April, 2003, on each of the parties listed on the attached mailing list.



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